Reg. No. B.G. 202.

The Mysore Gazette

PUBLISHED BY AUTHORITY

(EXTRAORDINARY)

PART IV—2C (i)

BANGALORE, THURSDAY, OCTOBER 19, 1967
(ASVIJA 27, SAKA ERA 1889).

No. 231

HOME SECRETARIAT.

NOTIFICATION.

Bangalore, dated the 19th October 1967.

G.S.R. 468. In exercise of the powers conferred by section 71 of the Mysore Excise Act, 1965 (Mysore Act No. 21 of 1965), the Government of Mysore hereby makes the following rules, the draft of the same having been previously published, as required by sub-section (1) of section 71 of the said Act, in Notification G.S.R. No. 433 in Part IV-2-C (i) of the *Mysore Gazette* (Extraordinary), dated 30th September 1967, namely :—

THE MYSORE EXCISE (DISPOSAL OF PRIVILEGES OF RETAIL VEND OF LIQUORS) RULES, 1967.

1. **Title, extent and commencement.**—(1) These rules may be called the Mysore Excise Disposal of Privileges of Retail Vend of Liquors) Rules, 1967.

(2) They shall extend to all the areas where the Mysore Excise Act, 1965 is in force.

(3) They shall come into force at once.

2. Definition.—In these rules, unless the context otherwise requires, "right of retail vend of liquors" means the lease of the right of retail vend of liquors.

3. Lease of the right of retail vend.—Subject to the provisions of these rules, the right of retail vend of liquors shall be disposed of by tender or by auction or by tender-cum-auction or in any other manner as the Excise Commissioner may notify:

Provided that if the disposal is not finalised in any one manner the Excise Commissioner may notify that the right may be disposed of in any other manner.

4. Particulars of the Notification.—(1) When the right of retail vend is to be disposed off by the tender, notification by the Excise Commissioner under rule 3 shall contain the following particulars, namely :—

(i) the name or names of a shop or group of shops of liquors in a taluk/taluks/district/districts to be disposed of;

(ii) the last date, time, and place for receipt of tenders;

(iii) the general conditions governing the tender; and

(iv) the duration of lease.

(2) When the right of retail vend is to be disposed off by auction, the notification by the Excise Commissioner shall contain the following particulars, namely :—

(i) the name or names of a shop or group of shops of liquor in a taluk/taluks/district/districts to be disposed of;

(ii) the date and time and place of auction;

(iii) the general conditions governing the auction, and

(iv) the duration of lease.

(3) When the right of retail vend is to be disposed off by tender-*cum*-auction the notification by the Excise Commissioner shall contain the following particulars, namely :—

(i) the name or names of a shop or group of shops of liquors in a taluk/taluks/district/districts to be disposed off;

(ii) the last date and time and place for receipt of tenders;

(iii) the general conditions governing the tender-*cum*-auction;

(iv) the duration of lease.

5. Deputy Commissioner to conduct auctions.—When action is taken under rule 3, the Deputy Commissioner or the Divisional Commissioner, as the case may be, shall conduct the auctions at the District or Division Headquarters and the Revenue Sub-Division Officer or any other Gazetted Officer of the Revenue or Excise Department not below the rank of an Assistant Commissioner authorised by the Deputy Commissioner shall conduct the auctions in other places.

6. Submission of tenders.—Persons desiring to obtain the right of retail vend may submit their tenders either for any shop or group of shops as notified under rule 3.

7. Conditions to be satisfied.— The submission of tenders shall be subject to the following conditions, namely :—

(*a*) The tender shall be in a sealed cover and addressed to the Deputy Commissioner or Divisional Commissioner or any other officer authorised by him in that

behalf, superscribed "Tenders for the right of retail vend of liquor in the shop or group of shops located in taluk/taluks/ District/Districts..... ....for the year/years..... ...."

(b) The tenders shall be submitted not later than 3 P.M. on the day immediately preceding the date notified for sales.

(c) Not more than one tender shall ordinarily be submitted by any one person. If more than one tender are submitted, only the tender quoting the highest offer shall be considered and the others shall be rejected.

(d) The tenderer shall, for each tender submitted by him, obtain a receipt from the Deputy Commissioner or the Divisional Commissioner or the officer authorised to receive the tender.

(e) The tenders, if they are conditional, shall be rejected.

(f) Every tenderer shall in respect of each tender deposit in cash with the Divisional Commissioner or Deputy Commissioner or other Officer authorised as earnest money an amount equal to ¼ of the shop rental of the previous year of the shop or group of shops for which he tenders or a sum of Rs. 100 for each shop and a multiple thereof for a group of shops as notified for any particular area by the Excise Commissioner in the Sales Notification published in the *Mysore Gazette*.

(g) (i) All the shops lying within a radius of ten kilometres from a town having 10,000 or more population or from a city, belonging to the same taluk shall be clubbed together with that town or city, and shall be treated as a single unit for the purpose of the sales.

(ii) Earnest money for the shops referred to in (i) above will be notified by the Excise Commissioner, in the form of a schedule to the Sale Notifications.

(h) Tenders in respect of which the earnest money is not deposited shall be rejected.

(i) The tenderer referred to at (c) above shall also entitled to bid at the auction.

8. Bids to be called.—On the date notified for auction, the Officer conducting the auction shall call for bids at the time and place notified.

9. Earnest money.—(1) Every bidder at an auction, other than a person who has submitted a tender shall deposit in cash as earnest money the amount specified or fixed under clause (f) of rule 7.

(2) A person who has not deposited the earnest money shall be disqualified from taking part in the auction.

10 Certificates to be produced.—An intending bidder or tenderer shall furnish either a certificate about his solvency issued by a competent gazetted Officer of the Revenue Department as per existing Government Orders or two sureties who shall produce similar solvency certificates or bank guarantee or cash deposit. Such solvency certificate, bank guarantee or cash deposits shall not be less than four times the earnest money fixed under clause (f) of rule 7.

11. Order in which shops are auctioned.—The shop or group of shops, as the case may be, shall be auctioned in the order in which they are notified, unless the officer conducting the auction considers it necessary to change such order.

12. Benami bids not allowed.—No person except a power of attorney holder shall be entitled to bid for another person.

13. Joint tender or joint bid.—(1) A tender submitted or a bid offered jointly by more persons than one shall not be accepted unless such persons are members of a registered company or firm or registered Co-operative Society and the tender or the bid is submitted or made on behalf of such company or firm or registered Co-operative Society ;

(2) The Officer conducting the auction shall refuse to register as a purchaser any person in whose name the bidding has not proceeded.

14. Withdrawal of bid.—A bid once offered or a tender once submitted shall not be withdrawn till a final decision is given.

15. Refusal of bid, etc.—The Officer conducting the auction may, at his discretion, refuse to accept the bid or offer of any person on the ground that it is too low, or that such person has been convicted by a criminal court, or has previously been guilty of such breach of the conditions of a licence or of a contract under the Excise Act as to render such person undesirable as the holder of a licence, or that such a course is necessary to prevent arrangements to the detriment of public interest or for any other valid reason. He may also refuse any bid or offer which he may consider to be purely speculative, after recording his reasons for doing so.

16. Disqualification.—(1) A person holding an office of profit under the State Government or the Central Government shall be disqualified from submitting a tender or bidding at an auction either personally or through another person on his behalf for any shop or group of shops; and

(2) No defaulter who is in arrears of Excise revenue and sales tax relating to Excise Contracts to Government shall be eligible to bid at the auction unless he produces a certificate from the Deputy Commissioner or the Sub-Division Officer or the District Excise Officer or the Assistant District Excise Officer and/or the Commercial Tax Officer stating that the non-payment of arrears due by him is due to its not having been determined, or to its being in dispute or under correspondence. Nor will any other member of the joint family of such a defaulter be eligible to bid at the auction. The heirs of a deceased defaulter shall also be ineligible to bid.

17. Procedure at Sales.—(1) The highest bid received shall be recorded and the signature of the bidder taken to the bidders' list in token of his offer to that bid. No bids shall

be allowed thereafter. Then the tenders if any received for that shop or group of shops shall be opened, and a statement of such tenders indicating the amount of each tender shall be prepared. The Officer conducting the auction may announce the acceptance of the highest offer received whether through a tender or a bid within a period of 48 hours, except in the case of combination of districts the announcement of the acceptance will be made after such combination of districts is put to auction and decision taken thereof within 48 hours. He may reject any tender or bid if in his opinion the same is not satisfactory, in which event, the sale of the shop or group of shops, as the case may be, shall be reserved. The acceptance of an offer or bid by the Officer conducting the auction shall be subject to the condition of confirmation by the Deputy Commissioner or by the Divisional Commissioner and revision by the Excise Commissioner or by Government under sub-rule (2) below. The confirmation of the acceptance of the offer by the Deputy Commissioner or by the Divisional Commissioner shall be effective unless revised by the Excise Commissioner or Government. Confirmation of acceptance of offer by the Deputy Commissioner or Divisional Commissioner shall be necessary whether the sale is held by the Deputy Commissioner or Divisional Commissioner himself or by any other Officer appointed by him.

(2) The Excise Commissioner or the Government may, for reasons to be recorded in writing, revise the decision of the Deputy Commissioner or the Divisional Commissioner confirming the acceptance of an offer or bid, after giving a reasonable opportunity of being heard to the person affected.

(3) In case the bid or offer is rejected by the Officer conducting the auction, or by the Deputy Commissioner or the Divisional Commissioner or in revision by the Excise Commissioner or the Government, the shop or group of shops shall again be disposed off by calling for tenders, auction or by tender-*cum*-auction or by any other method as the Excise Commissioner may direct.

(4) If the Officer conducting the sale rejects the highest bid or offer, he may either accept the next highest bid or offer or re-sell the shop.

(5) As the auction proceeds, each person whose bid or tender is accepted shall at once, if so required by the auctioning authority, or otherwise at the close of the day's sales, make further deposit which together with the earnest money shall make up one month's rent, of each shop or group of shops which he purchased.

(6) If the deposit under sub-rule (5) is not made, the earnest money shall be forfeited to Government and the shops shall be put up again immediately to auction by the officer conducting the auction on the above conditions at the risk of the defaulter who shall be debarred from bidding again for the same or for any other shops.

(7) Successful bidders shall be granted receipts for the amount deposited by them.

18. Sale of reserved shops.—(1) If any shop or group of shops is reserved, under sub-rule (1) of Rule 17, it may be disposed off by the Deputy Commissioner or by the Divisional Commissioner by tender or by any other method. The notification calling for such tenders may be published in the official Gazette at least one week before the last date fixed for receipt of such tenders. The Notification shall contain the particulars regarding the shop or group of shops for which the tenders are called and the place, date and time of receiving such tenders. The notification shall also indicate the place, date and time of opening such tenders.

(2) On the date and at the time and place notified, the Deputy Commissioner or the Divisional Commissioner or other Revenue Officer not below the rank of an Assistant Commissioner deputed by him shall open the tenders, in the presence of such of the tenderers as may be present and a statement of tenders indicating the amount of each tender shall be prepared. The highest offer shall normally be accepted but any such offer may be rejected for reasons to be recorded in writing. The acceptance of any offer

shall be effective unless revised by the Excise Commissioner or Government under sub-rule (3) below.

(3) The Excise Commissioner or Government may for reasons to be recorded in writing revise the decision of the Deputy Commissioner or Divisional Commissioner confirming the acceptance of an offer after giving a reasonable opportunity of being heard to the person affected.

(4) The provisions contained in rules 7, 9, 10, 12, 13, 14, 16 and 17 shall apply as regards earnest money to be deposited, qualifications and disqualifications of person submitting tenders and deposits to be made when the tender of any person is accepted.

(5) Where at the initial proceedings for tender-*cum*-auction or any other method, any shop or group of shops is reserved, or the sale of any shop or group of shops, is not confirmed by the Deputy Commissioner or Divisional Commissioner or the acceptance of any bid or tender in respect of a shop or group of shops is set aside by the Excise Commissioner or Government and the Excise Commissioner or Government directs that any such shop or group of shops shall again be disposed of by tender-*cum*-auction or any other method, such disposal shall be made in accordance with these rules.

19. Successful bidder to apply for licence: – Every person to whom the right of retail vend of liquors is sold or whose tender in respect thereof has been accepted under these rules and who has made deposits as hereinbefore provided shall:—

(1) at once apply in writing for a licence for each shop confirmed in his name and within a week thereafter furnish to the Tahsildar the details of boundaries of the site selected by him for the location of the shop and a statement in the prescribed form annexed to this notification showing details of the immovable property possessed by him or in which he has an interest together with accurate and full details of encumbrances, if any, thereon;

(2) within 15 days from the date of sale he shall make such further deposit as with the deposit already made under sub-rule 5 of Rule 17 shall make up 2 months khist of all the shops confirmed in his name unless such amount or larger amount has already been deposited by him.

(3) If on perusal of the statement of immovable property furnished by the purchaser or on independent enquiry, it is found that the purchaser is of doubtful solvency,

(i) such purchaser shall make a deposit of 4 months rent besides the deposit of 2 months rent which he has already made if he has not submitted solvency certificate of his property or that of the property of his sureties;

(ii) he shall execute a mortgage of his immovable property in Mysore worth six months rentals of the shops, in favour of the Governor of Mysore for all moneys that may become due under the terms of the contract with a power of sale in favour of the Governor of Mysore to be exercised in default of payment thereof by the purchaser ; or

(iii) he shall get a surety or sureties who are residents of, and possess sufficient property in the Mysore State, to execute a security bond for the due payment of all money that may become due by him under the terms of the contract and to execute a mortgage deed of his or their immovable property in favour of the Governor of Mysore to be exercised in default of payment thereof by the surety or sureties or by the purchaser.

(4) If the Tahsildar is not satisfied that the value of the immovable property rendered by the purchaser as security is adequate, he may require such person to produce in addition to mortgaging his property, a surety or sureties to be approved by him. Such surety or sureties shall execute a security bond for the amount to cover

the deficiency as determined by the Tahsildar mortgaging his or their property in favour of the Governor of Mysore. The sureties referred to above shall submit to the Tahsildar a statement in the Form annexed to these rules showing details of their immovable property. The purchaser shall be bound to fulfil the aforesaid requirements within fifteen days from the date of sale.

(5) The purchaser shall get the bond and the mortgage deed registered under the Indian Registration Act, 1908 at his expense.

(6) The purchaser or his surety shall produce an encumbrance certificate in cases where immovable property is mortgaged to the Governor of Mysore.

20. Return of deposit.—(1) Earnest money deposited shall be returned in all cases in which the bid or tender is not accepted or an acceptance is not confirmed or a confirmation is set aside, on application.

(2) On failure of any person to comply with the provisions of rules 17 and 19, the deposits already made shall be forfeited and the right of retail vend of liquor in such shop or group of shops disposed of in such manner under these rules, as the Excise Commissioner may direct.

21. Re-sales.—Re-sales to be held under sub-rule (2) of Rule 20 shall be at the risk of the defaulting purchaser who shall not be entitled to any excess amount realised and, in the event of loss to Government, shall be bound to make good the deficiency between the total amount payable for the whole period under the terms of the original sale and the total amount payable by the purchaser at the re-sale. In the latter case the forfeited deposits shall be deducted from the loss arising from the re-sale and the balance, if any, shall be recovered from the defaulter in the same manner as if it were an arrear of land revenue. Should however, the forfeited deposits be greater than the loss by resale, the whole of such deposits shall be credited to Government. The defaulting bidder shall be

similarly liable if the right of retail vend of liquors is disposed off otherwise than by re-sale and such disposal results in loss to Government as compared with the bid amount at the original sale. Disposal otherwise than by resale includes closure of the shop or shops.

22. Manner of depositing.—The deposits under rule 19 may be made either in cash or in Government or other recognised securities. When deposits are made otherwise than in cash, the Deputy Commissioner may demand that they shall be of such higher face value than the cash required as in the circumstances of the market he may think necessary. Where the deposits under this rule are sufficient to cover also deposits made under rules 7, 9 and 17 which have not been refunded as well as deposits under rule 19, the deposits made in cash may be returned to the depositors. In the event of such security depreciating to the extent of rupees 100 or more, the Deputy Commissioner may call upon the depositor to produce further security to the extent of depreciation.

23. Adjustment of deposits.—Deposits in cash unless forfeited or adjusted earlier shall be adjusted towards the final instalments of rents due. But in the case of toddy shops, a sum not exceeding one month's kist may, at the discretion of the Deputy Commissioner, be retained for a period of six months after the close of the year to facilitate the adjustment of any sum that may be found due on account of penalty and like dues, deposits of securities or savings bank pass books, or other documents shall be returned on payment in cash of the full amount of the rent due and of any penalties or other sums recoverable under the terms of the licence or the conditions set forth below unless the depositors wish that Government should take them over, in which case they may be taken over at the discretion of Government at market rates and the balance, if any, due to Government shall be paid in cash. For contravention of these rules or of the general conditions applicable to all excise licences and for any amount due to Government under the terms of the

contract, the securities deposited under the aforesaid provisions of these rules shall be liable to be sold. The balance if any, due after such sale, shall be recoverable in addition to other remedies open, as arrear of land revenue.

24. Applicability of other provisions.—(1) The purchaser shall be bound by all the provisions of the excise laws which are in force or which may come into force and of the rules or regulations which have been or may from time to time be made by the Government or the Excise Commissioner or by any competent authority, as the case may be.

(2) The licence issued under these rules shall be subject to the general conditions applicable to all excise licences and the other conditions set out in these rules.

25. Penalties, etc.—The purchaser of the lease is liable to the penalties prescribed for breaches of the conditions set forth though a formal licence may not have been issued to him. In the event of the purchaser's death his heirs and assigns shall be liable for all moneys that have or may become due to the Government under the terms of the agreement and shall be responsible for the proper observance of all the conditions of the licence.

26. Power of Excise Commissioner to vary number of shops.—The Excise Commissioner shall be empowered to increase or decrease, the number of shops notified or shift an existing shop to another place at any time during the lease period.

27. Deputy Commissioner's powers.—(1) The Deputy Commissioner may fix the maximum and minimum rates of retail vend, if he considers it necessary to protect Government's interest, or to check unhealthy competition among the licensees and the licensees shall be bound by such fixation.

(2) The Deputy Commissioner may for reasons to be recorded in writing direct that any liquor shop shall be shifted from its licensed premises to any other premises.

(3) Before making an order under sub-rules (1) and (2) the Deputy Commissioner shall give a reasonable opportunity to the licensee of being heard.

23. Repeal and Savings.—All rules corresponding to the foregoing rules framed under any enactment repealed by section 72 of the Act are hereby repealed:

Provided that the repeal shall not affect—

(*a*) the previous operation of the rules so repealed or anything duly done or suffered thereunder, or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under any rule so repealed, or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against any rule so repealed, or

(*d*) any investigation or legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if such rules had not been repealed:

Provided further that subject to the preceding provisions anything done or any action taken (including any appointment or delegation made, notification, order, instructions or direction issued, form, certificate obtained, permit or licence granted or registration effected) under any such rules shall be deemed to have been done or taken under the corresponding provisions of these rules) and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the Act or these rules as the case may be.

FORM

[*See* rule No. 19 (1) and (4)]

List of immovable property by successful bidder of

_____ Shop

surety of the successful bidder of
No ..... at ..... taluk ..... district
for the lease 19 to 19

(1) Name
(2) Father's Name
(3) Residence and address
(4) Occupation

(5) (I) Particulars of immovable property possessed

District	Taluk	Village and name of street in case of houses	Survey numbers and door numbers in case of houses	Extent	WET or DRY	Assessment	Market Value per acre in the case of land	Registered in whose name, if pattadar, patta number
1	2	3	4	5	6	7	8	9

(II) What is the nature and extent of your ownership or interest in the above property?

(III) Are there any existing encumbrances on the above property? If so, nature and amount of each such encumbrance should be noted.

(IV) Are there any other claims upon the property shown in Head (I) above? If so, the nature and amount of such claim should be stated.

I, ... son of .... residing at .... hereby solemnly declare that the facts about my property above stated are complete and true and that there are no encumbrances thereon beyond those shown in Head (III) above and I shall not encumber/further encumber any of the property shown in statement above without the previous intimation in writing to the Tahsildar ..... taluk.

Witness .....

Address ....

Date ..... Signature .....

NOTE :—1. Under Head (I), it should be stated whether the property is the sole or joint family property of the declarant; if joint family, the share of the declarant and value thereof should be stated.

2. Under Head (IV) should be noted interests in or claims on the property other than those noted under Head (II), *e.g.*, claims on account of dowry or stridhanam.

3. The Tahsildar should question the deponent further, if necessary, in order to elucidate his statement and should record the replies which should be signed by the deponent and the Tahsildar and attached to this declaration.

[No. HD 72 EFL 67.]

By Order and in the name of the Governor of Mysore

M. G. KRISHNA,

Under Secretary to Government,
Home Department (Excise).

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.